

REMARKS/ARGUMENTS

Claims 1, 7, 9-14 and 26-37 are now pending in this application. Claims 1 and 26 are independent claims. Claims 1, 7, 9 and 26 have been amended. Claims 2-6, 8 and 15-25 have been cancelled.

Claim Rejections - 35 USC § 101

Claims 1, 3-7 and 9-14 stand rejected under 35 U.S.C. § 101. (Pending Office Action, Page 2). Applicants respectfully traverse. Amendments have been made to the claims thereby obviating the rejections under this section.

Claim Rejections – 35 USC § 103(a)

Claims 1, 3-7 and 9-14 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Sriram in view of Polan et al., US 2003/0172123 (hereinafter: Polan), in further view of Admitted Prior Art (APA), and further in view of Chen, USPN: 5,970,088 (hereinafter: Chen). (Pending Office Action, Page 3). Claims 26-37 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Mullendore et al., USPN: 7,215,680 (hereinafter: Mullendore) in view of Sriram, in further view of APA, in further view of Chen. (Pending Office Action, Page 6). Applicants respectfully traverse these rejections.

“To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations.” (emphasis added) (MPEP § 2143). “If an independent claim is non-obvious under 35 U.S.C. 103, then any claim depending therefrom is non-obvious.” (emphasis added) *In re Fine*, 837 F. 2d 1071, 5USPQ2d 1596 (Fed. Cir. 1988). Applicants state that Independent Claims 1 and 26 of the present application include elements which are not disclosed, taught or suggested by any of the above-cited references, either alone or in combination.

Independent Claims 1 and 26 generally recite elements that have not been disclosed, taught or suggested by the above-cited references, either alone or in combination with any of the above-cited references. For example, Independent Claims 1 and 26 each generally recite the following element:

“prioritizing an earliest queued context for the remote node with the highest weight via equation: $\text{priority_value} = A * \text{priority_type} + B * \text{time_of_entry}$, wherein A and B are at least one of: fixed constants; and variables, said fixed constants and variables being configured for being established via at least one of: software, an external device, and a user to provide a weighing factor.”

In the present invention a weighting relationship may be used in conjunction with or as an alternative to the multiple queue usage. For example, all entries for a device (i.e., node) may be assigned a priority value based on an equation such as $\text{priority_value} = A * \text{priority_type} + B * \text{time_of_entry}$, where A and B are fixed constants or are variables that may be set by the software, an external device, or a user to provide a weighting factor. (Present Application, Pages 8-9, Paragraph 0017). The Patent Office cited Sriram as teaching prioritization of an earliest queued context for the remote node with the highest weight. (Pending Office Action, Page 5 (Sriram, Column 6, Lines 20-44). However, Sriram merely teaches a system in which a server removes a pre-determined number of cells from a queue during a given time period. (Sriram, Column 6, Lines 26-29). Sriram further teaches that if the server visits a queue and that queue has no cells, it will move on to a next queue. (Sriram, Column 6, Lines 34-36). Sriram is a responsive system (ex – when the queue runs out of cells, the server moves onto another queue). In contrast, the system/method of the present invention prioritizes an earliest queued context for the remote node with the highest weight (ex. – a weighting factor may be provided via software, an external device, and/or a user of the system, and said system, based on said weighing factor may pre-determine which contexts will have priority of transmission (ex. – first to transmit, last to transmit). (Present Application, Pages 8-9, Paragraph 0017). In Sriram, no priority of transmission is determined for the queues. They are merely visited by said server, and skipped over, once said server determines that they have no cells to transmit. Further, by skipping queues with no cells,

the system of Sriram is giving no priority of transmission to those queues as they have nothing to transmit and will not be transmitting. Also in Sriram, the queues that have cells are all allowed to transmit cells, but not in any pre-determined order and not as dictated by any pre-determined weighing factor. Thus, none of the Patent Office-cited references disclose, teach or suggest the above-referenced elements of the present invention.

Therefore, Applicants contend that none of the above-cited references, alone or in combination, either teach, disclose or suggest the above-referenced elements of Claims 1 and 26. Therefore, a prima facie case of obviousness has not been established for Independent Claims 1 and 26 of the present application. Thus, Independent Claims 1 and 26 should be allowed. Further, Dependent Claims 7 and 9-14 (which depend on Independent Claim 1) and Dependent Claims 27-37 (which depend on Independent Claim 26) should also be allowed.

CONCLUSION

In light of the forgoing, reconsideration and allowance of the pending claims is earnestly solicited.

Respectfully submitted on behalf of

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